

**DISTRICT OF COLUMBIA**  
**DOH Office of Adjudication and Hearings**  
825 North Capitol Street N.E., Suite 5100  
Washington D.C. 20002

DISTRICT OF COLUMBIA  
DEPARTMENT OF HEALTH  
Petitioner,

v.

TAI JIANG CHINESE RESTAURANT  
and XUE CHEN  
Respondents

Case No.: I-00-70132

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**FINAL ORDER**

**I. Introduction**

This case arises under the Civil Infractions Act of 1985 (D.C. Official Code §§ 2-1801.01 *et seq.*) and Title 23 Chapter 26 of the District of Columbia Municipal Regulations (“DCMR”). By Notice of Infraction (No. I-00-70132) served June 18, 2001 the Government charged Respondents Tai Jiang Chinese Restaurant and Xue Chen with violations of 23 DCMR 2606.1 for allegedly failing to provide adequate facilities for waste storage<sup>1</sup>, and 23 DCMR 2606.2 for allegedly failing to use vermin-proof trash and storage areas.<sup>2</sup> The Notice of Infraction alleged that these violations occurred on June 12, 2001 and sought a fine of \$1,000 for each violation, for a total of \$2,000.

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<sup>1</sup> 23 DCMR 2606.1 provides: “Adequate facilities shall be provided for the collection and storage of all garbage, trash, and other refuse accumulating in a food establishment.”

<sup>2</sup> 23 DCMR 2606.2 provides: “All trash and storage areas shall be vermin-proof.”

On July 12, 2001, Respondents, through their representative, filed a plea of Admit with Explanation pursuant to D.C. Official Code § 2-1802.02(a)(2) to the charges set forth in the Notice of Infraction, along with a request for a reduction or suspension of any authorized fines. Respondents explained that the conditions referenced in the Notice of Infraction on June 12, 2001 were corrected as of June 15, 2001.<sup>3</sup>

By Order dated July 19, 2001, the Government was permitted to respond to Respondents' plea and request on or before September 28, 2001. Because no response from the Government has been received within the allotted time, this matter is ripe for decision.

## **II. Findings of Fact**

1. At all relevant times, Respondent Tai Jiang Chinese Restaurant operated as a delicatessen (License No. 29931480) at 1023 Bladensburg Road, NE. At all relevant times, Respondent Xue Chen was the licensee for Respondent Tai Jian Chinese Restaurant.
2. By their plea of Admit with Explanation, Respondents admit they violated 23 DCMR 2606.1 on June 12, 2001 at 1023 Bladensburg Road, NE.

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<sup>3</sup> Respondents' representative also noted that the owner of Respondent Tai Jiang Chinese Restaurant (presumably its licensee Respondent Xue Chen) would be out of the country until mid-September, 2001 and wished to have a hearing at that time. On July 19, 2001, this administrative court issued an order explaining that in cases where a Respondent has entered a plea of Admit with Explanation pursuant to D.C. Official Code § 2-1802.02(a)(2), a hearing by mail is ordinarily held. The July 19<sup>th</sup> Order, however, provided Respondents with an opportunity to supplement their request for a reduction or suspension of the fine in writing upon the return of their witness in September. If, after fully articulating their explanation in writing, Respondents believed they still required an in-person hearing, the July 19<sup>th</sup> order provided that such a hearing would be scheduled. Respondents elected not to file any supplemental explanation.

3. On June 12, 2001, Respondents failed to provide adequate facilities for waste storage at 1023 Bladensburg Road, NE.
4. By their plea of Admit with Explanation, Respondents admit they violated 23 DCMR 2606.2 on June 12, 2001 at 1023 Bladensburg Road, NE.
5. On June 12, 2002, Respondents failed to use vermin-proof trash and storage areas at 1023 Bladensburg Road, NE.
6. Respondents undertook prompt action to correct their unlawful conduct.
7. Respondents have accepted responsibility for their unlawful conduct.
8. There is no evidence in the record of a past history of non-compliance on the part of Respondents.

### **III. Conclusions of Law**

1. Respondents violated 23 DCMR 2606.1 on June 12, 2001. A fine of \$1,000 is authorized for that violation which, in light of Respondents' prompt action in correcting the violation, their acceptance of responsibility and the lack of evidence in the record of a past history of non-compliance, shall be reduced to \$500. *See* D.C. Official Code §§ 2-1802.02(a)(2), 2-1801.03(a)(6); U.S.S.G. § 3E1.1; 18 U.S.C. § 3553; 16 DCMR 3216.1(k).
2. Respondents violated 23 DCMR 2606.1 on June 12, 2001. A fine of \$1,000 is authorized for that violation which, in light of Respondents' prompt action in correcting the violation, their acceptance of responsibility and the lack of evidence in the record of a past history of non-compliance, shall be reduced to

\$500. *See* D.C. Official Code §§ 2-1802.02(a)(2), 2-1801.03(a)(6); U.S.S.G. § 3E1.1; 18 U.S.C. § 3553; 16 DCMR 3216.1(l).

#### **IV. Order**

Based upon the foregoing findings of fact and conclusions of law, and the entire record of these proceedings, it is, hereby, this \_\_\_\_ day of \_\_\_\_\_, 2002

**ORDERED**, that Respondents, who are jointly and severally liable, shall pay fines in the total amount of **ONE THOUSAND DOLLARS (\$1,000)** in accordance with the attached instructions within twenty (20) calendar days of the date of mailing of this Order (fifteen (15) calendar days plus five (5) days for service by mail pursuant to D.C. Official Code §§ 2-1802.04 and 2-1802.05; and it is further

**ORDERED**, that, if Respondents fail to pay the above amount in full within twenty (20) calendar days of the date of mailing of this Order, by law, interest must accrue on the unpaid amount at the rate of 1 ½% per month or portion thereof, beginning with the date of this Order, pursuant to D.C. Official Code § 2-1802.03(i)(1); and it is further

**ORDERED**, that failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondents' licenses or permits pursuant to D.C. Official Code § 2-1802.03(f), the placement of a lien on real or personal property owned by Respondents pursuant

to D.C. Official Code § 2-1802.03(i) and the sealing of Respondents' business premises or work sites pursuant to D.C. Official Code § 2-1801.03(b)(7)

**/s/      03/04/02**

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Mark D. Poindexter  
Administrative Judge